

FACT SHEET

History of Smoking Legislation

Hawai'i State Department of Health

1939

Tax on tobacco products enacted (6% on retail price). Statute amended periodically between 1939-1965 increasing the tax on tobacco products.

1965

Tax on tobacco products amended to 40% of the wholesale price.

1975

The Department of Health (DOH) developed a model policy for Hawai'i State Government restricting smoking in selected locations of the DOH main building, Kina'u Hale.

1976

Smoking in Public Places legislation introduced. Prohibited smoking and required signage for designated areas (e.g., elevators, auditoriums, meeting rooms, and community centers). Passed as Act 108

1978

Department of Health initiates development of the state's first governmental agency policy on smoking.

Smoking questionnaire distributed to all Department of Health employees.

1979

Department of Health policy on smoking implemented.

1982

Governor issues memorandum to all department heads requesting them to protect nonsmokers.

1985

Smoking in the Workplace legislation introduced. Included both public and private worksites. Did not pass.

1986

Smoking in the Workplace legislation introduced. Amended to exclude private worksites. Passes as Act 245.

Smoking in Public Places Legislation introduced. Expanded the number of locations where smoking is prohibited. Passed as Act 234.

1987

Sale of Tobacco Products to Minors legislation introduced. Legal age of purchase/sale rose from 15 to 18 years. Passed as Act 293.

Smoking in Public Place Statute, Act 234. Effective 9/87

Smoking in the Workplace Statute, Act 245. Effective 9/87.

1988

Sale of Tobacco Products to Minors, Act 293. Effective 1/88.

Act 169 passed, clarifying the definition of a ibarī under Chapter 328K, HRS.

Act 289 passed, extending the control of the Smoking in the Workplace statute to private agencies receiving state funds under Chapter 42, effective 9/88.

1989

Several bills introduced to extend and clarify restrictions under Smoking in Public Places statute. None passed.

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1990

Legislature passes Act 164, which repeals licensing requirement under Chapter 444, HRS. Sections 211-213, for the sale of tobacco products.

1991

Cigarette Vending Machine legislation introduced. Restricts placement of vending machines to locations where minimum age for admission is 21, e.g., bars and cabarets. Passed as Act 253.

Board of Education drafts Tobacco-Free School System policy banning all smoking in Department of Education classrooms, campuses, facilities, activities, and District Offices.

Increase in tobacco tax (from 40% to 50% of the wholesale price) introduced. Did not pass.

1992

Governor's Legislative Package supports three tobacco bills:

- Smoking in the Workplace legislation introduced. Amended definition of “employer” to include private worksites. Did not pass.
- Dinner cruise legislation introduced. Required nonsmoking seating options for patrons in dining areas of all cruise ships operating within the states’ jurisdictional waters. Passes as Act 215. Effective 7/92.
- Restaurant legislation introduced. Clarifies language in the existing statute to satisfy legislative intent. Did not pass.

“Smokers’ Rights” legislation added by the tobacco lobby as an amendment to an HIV/fair employment practice bill. Passed by Legislature. Vetoed by Governor.

Cigarette Vending Machine Statute, Act 253. Effective 7/92.

1993

Governor's Legislative Package supports three tobacco bills:

- Cigarette excise tax increase to 3.0 cents per cigarette (60 cents per pack). Passed as Act 220. Effective 7/93.

- Smoking in the Workplace legislation. Amended definition of “employer” to include private worksites. Did not pass.
- Restaurant legislation. Clarified language in the existing statute to satisfy legislative intent. Passed as Act 203. Effective 7/93.

Smoking in Childcare Facilities. Prohibits smoking in licensed childcare facilities during hours of operation. Passed as Act 68. Effective 7/93.

Tobacco-Free School System Policy. Prohibits smoking by any person on all campuses, at school-sponsored activities, in school vehicles, and administrative offices. Passed 4/93. Effective 9/93.

City and County of Honolulu Ordinances

- Creates a total ban on smoking in all areas of city owned or controlled buildings. Ordinance 94-24
- Increases prohibitions against smoking to include the common areas of multi-family dwellings and multi-tenant commercial buildings, and vehicles owned or leased by the city. Ordinance 93-68
- Provides taxicab owners and drivers the option to prohibit smoking in their vehicles. Ordinance 93-88
- Prohibits smoking within all areas of the Honolulu Zoo, Hanauma Bay Nature Park and all city botanical gardens. Ordinance 93-92

1994

Governor's Legislative Package supports bill extending workplace protections to private businesses. Did not pass.

Tobacco lobby creates an omnibus bill, which added language to preempt county ordinances. Passed by legislature. Vetoed by Governor.

City and County of Honolulu Ordinances

- Prohibits distribution of sample tobacco products and promotional items on city streets, parks, sidewalks, and within 1,000 feet of schools. Ordinance 94-82



1995

Governor's Legislative Package supports bill extending workplace protections to private businesses and prohibiting distribution of sample tobacco products and promotional items in public places. Did not pass.

Resolution on sale to minors. Passed.

City and County of Honolulu Ordinances

- Proposes bill to ban smoking in all restaurants. Passed by Council. Vetoed by Mayor.

1996

Governor's Legislative Package supports:

- Cigarette excise tax increase to 5.0 cents per cigarette (\$1.00 per pack). Did not pass.
- The sale of single cigarette or packs containing less than 20 cigarettes prohibited. Passed as Act 53. Effective 4/96
- Mobile food vendors prohibited from selling tobacco products within 1,000 feet of school grounds. Passed as Act 313. Effective 6/96.

Act 312 passed improving signage requirements. Effective 6/96.

Bills to increase fines and penalties for the sale of tobacco to minors and licensing retail tobacco sales were introduced but did not pass.

Resolution urging youth athletic leagues to adopt policies discouraging tobacco and alcohol use by coaches and spectators during practices and games. Passed.

1997

Governor's Legislative Package supports:

- Cigarette excise tax increase to 5.0 cents per cigarette (\$1.00 per pack). A portion of new revenues set aside for tobacco prevention.
- \$1.00 tax passed in two increments:
 - \$0.80 per pack, effective 9/10/97

- \$1.00 per pack, effective 7/01/98
Set aside deleted.

- Creation of a licensure requirement for retail tobacco sales. Did not pass.

City and County of Honolulu Ordinances

- Prohibits smoking in all enclosed workplaces, with the exception of restaurants, bars and nightclubs. Ordinance 97-20

Maui County Council Ordinances:

- Prohibits smoking in any building owned, leased, operated or maintained by the County, and enclosed common areas of multi-family dwellings and multi-tenant commercial buildings, and in businesses with public access.
- Prohibiting the distribution of sample tobacco promotional materials within a school zone (within 1,000 feet of a school), and the distribution of sample tobacco products on any public street, sidewalk or park.

1998

Governor's Legislative Package supports:

- Increase in fines and penalties for illegal sale of tobacco products to minors, to a minimum of \$500 for the first offense, and up to \$2000 for subsequent offenses. Passes as Act 161. Effective 7/01/98.
- Creation of a licensure requirement for retail tobacco sales. Did not pass.

Industry-backed bill passes to implement a cigarette pack tax stamping program with no provisions for enforcement and to delay the implementation of the second increment of the tax increase by six months. Governor veto of the bill.

City and County of Honolulu Ordinances

- Prohibits placement of tobacco ads that are visible outside from public property within 1,000 feet of schools. Ordinance 98-10



1999

The Hawaii Tobacco Settlement Trust Fund, rainy day fund, and Hawaii Tobacco Prevention and Control Trust Fund was created. Act 304 specified how tobacco settlement moneys are to be transferred and used in Hawaii. Passed SB1034 into Act 304

Provision for excise tax on cigarettes to be imposed and collected through the use of stamps purchased by licensees, and affixed to cigarette packages. Includes provisions for civil and criminal penalties, and for forfeitures of cigarettes, to be enforced by the police departments, liquor commissions, the attorney general, and prosecuting attorneys. Requires the Director of Taxation to submit findings and recommendations to the legislature for the 2005 Session on effectiveness of Act. Governor veto of SB 788

A technical defect in the cigarette and tobacco tax law was corrected to restore the tax exemption for sales of cigarettes and tobacco products to the United States or any instrumentality thereof (i.e., sales to the military). Passed HB1207 to Act 10

Tobacco manufacturers, who are not part of the Master Settlement Agreement are required to establish a reserve fund to guarantee a source of compensation to the State. Passed HB1008 into Act 188

The distribution of sample tobacco products is prohibited on or in any public street, sidewalk, or park, or within 1000 feet of any school attended by minors. Also prohibits the distribution of tobacco promotional materials within 1,000 feet of any school attended by minors. Passed HB 294 into Act 272

City and County of Honolulu Ordinances

- Smoking prohibited at the Waikiki Shell, except in areas specifically designed for smoking. Ordinance 99-64
- The sale of fake IDs is regulated to prevent underage youth from using IDs to purchase alcohol and tobacco products. These fake IDs

must state “souvenir only” and this birthdate has not been verified. Ordinance 99-66

2000

The excise tax on cigarettes is to be imposed and collected through the use of stamps purchased by licensees and affixed to cigarette packages.

Included provisions for civil and criminal penalties, and for forfeitures of cigarettes, to be enforced by the police departments, liquor commissions, the attorney general, and prosecuting attorneys. Required the Director of Taxation to submit findings and recommendations to the legislature for the 2006 Session on effectiveness of Act. Passed SB2486 into Act 249

The sale and distribution of cigarettes designated for export and sale outside the United States and the altering of cigarette packages are prohibited. Established civil and criminal penalties, confiscation provisions, and forfeiture provisions. Passed SB3179 into Act 201

A reporting requirement is established to enforce a state law that requires tobacco product manufacturers who sell tobacco products in the State to deposit certain amounts into escrow based on the number of cigarettes sold. Passed HB2423 into Act 170

City and County of Honolulu Ordinances

- Prohibits selling, giving away or furnishing bidi cigarettes to anyone. Ordinance 00-23
- Prohibits selling, giving away or furnishing herbal cigarettes to minors. Ordinance 00-60

2001

Designates as illegal any package of cigarettes that bears a brand name that is a registered trademark of a participating manufacturer and the package was imported by anyone other than the participating manufacturer. Establishes a criminal offense for any person to affix any cigarette stamp to the package of any cigarettes that are illegal or altered. Passed HB 518 into Act 32



Establishment of the cigarette tax stamp enforcement special fund, tobacco enforcement special fund, and cigarette tax stamp administrative special fund. The resale of cigarettes purchased at sales outlets operated under the regulations of the Armed Services of the United States is prohibited. Created a presumption that all cigarettes are subject to the cigarette tax. Seeks appropriations from state general revenues to pay for the initial monitoring, administration, and enforcement of the cigarette tax stamp. Passed SB 992 into Act 270

2002

Makes the cigarette stamp tax permanent. Amends inspection, forfeiture, and enforcement provisions. Passed HB 2429 into Act 94

Increases the cigarette tax from 5 cents for each cigarette to 6 cents after September 30, 2002, 6.5 cents after June 30, 2003, and 7 cents after June 30, 2004. Passed HB 2741 into Act 246

City and County of Honolulu Ordinances

- Smoking is prohibited in any restaurant and any bar within an enclosed or partially enclosed food court. Smoking is prohibited in any separate in any separate bar area of a restaurant. Passed Bill 99 into Ordinance 02-06

Kaua'i County Ordinances

- Smoking is prohibited in any restaurant. Establishments excluded from this ordinance are: Nightclubs, Stand-alone bars, "Part-time Restaurant/Bar" only during the posted, specific time the establishment operates as a bar. Passed Bill 2048 into Ordinance 795

Maui County Ordinances

- Smoking is prohibited in any restaurant. Establishments excluded from this ordinance are: Nightclubs and Stand-alone bars. Passed Bill 45 into Ordinance 3078

2003

Refines the enforcement responsibilities of the Department of the Attorney General regarding enforcement of the tobacco Master Settlement Agreement, cigarette tax stamping requirements, the "gray market" enforcement requirements, and tobacco reporting requirements. Passed SB 1267 into Act 77

Synchronizes timing of receipt of settlement moneys from the Tobacco Master Settlement and the Tobacco Master Settlement Agreement to match the timing of revenues and expenses utilized. Expands the authorized uses of the funds contained in the Tobacco Enforcement Special Fund to include the enforcement of tax stamp requirements.

Transfers the moneys held in the Cigarette Tax Stamp Enforcement Special Fund into the Tobacco Enforcement Special Fund. Passed SB 1279 into Act 177

Hawai'i County Ordinances

- Smoking is prohibited in any restaurant. Beginning in September 1, 2004 smoking shall be permitted in a separate bar area of a restaurant when the business operating the restaurant refrains from designating the area as nonsmoking. Also smoking shall be permitted in the separate bar area only if the following provisions are met: there is a physical separation of the separate bar area and restaurant, there is are separate ventilation systems of the two areas, and the bar entrance is totally separate from the restaurant entrance. Bars are excluded from this ordinance. Passed Bill 260 into Ordinance 03122